

RESOLUTION NO. 75473

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO: (I) NEGOTIATE AND EXECUTE AN AGREEMENT WITH DAVID AKBAR AND MANVIR GILLON, A PARTNERSHIP DOING BUSINESS AS SAVU, FOR THE LEASE OF REAL PROPERTY LOCATED AT 150 S. 2ND STREET TO OPERATE A RESTAURANT AND SPORTS BAR FOR AN INITIAL TEN YEAR TERM WITH TWO FIVE YEAR OPTIONS TO RENEW, FOR RENTALS IN THE INITIAL TERM TOTALING \$1,330,212.00

WHEREAS, the City currently has available for rent a restaurant site located at 150 S. 2nd Street; and

WHEREAS, David Akbar and Manvir Gillon, a partnership doing business as SAVU, desire to rent the property to operate a restaurant and sports bar; and

WHEREAS, the City desires to negotiate and execute an agreement with SAVU;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The Director of General Services is hereby authorized to negotiate and execute an agreement with SAVU that contains the business terms attached hereto as Exhibit A.

ADOPTED this 22nd day of June, 2010, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

Exhibit A Business Terms

- The business terms described herein are the minimum terms set forth between staff and SAVU; final negotiations may result in more favorable terms to the City.
- Lessee: David Akbar and Manvir Gillon, a partnership doing business as SAVU.
- Venue Type: Restaurant and sports bar.
- Term: 10 years initial term.
- Option: Two 5-year options to extend.
- Rent:
 - Months 1-3 \$ 0.00
 - Months 4-12 \$9,886.50 (\$1.95 per sq ft).
 - 3% annual escalation.
 - At end of year 10, rent to be adjusted to market (but cannot be lower than immediately preceding period).
- NNN Expenses: \$0.10 per sq ft per month common area maintenance fee; equates to \$507.00 per month.
- Security Deposit: \$10,488.59
- Utilities: Separately metered by City, utilities bills paid for by Tenant.
- Improvements: Tenant responsible for building out the space to create a neighborhood restaurant and sports bar.
- Prevailing Wage: Applies to construction of improvements on-site.
- Condition: Tenant to take the premises in as-is, where-is condition.
- Assignment/Subleasing: Generally must have City's prior written approval.
- Termination: City has right to terminate the lease without cause upon 180 days prior written notice. If City terminates without cause during the first five years and there are unamortized costs of improvements, City will pay the lower of (i) unamortized costs according to a 5-year schedule to be included in the lease, or (ii) the fair market value of the improvements at the time of termination. There will be a cap on the reimbursement amount.
- Signage: City to cooperate with Tenant to acquire signage consistent with Downtown Signage Program.
- Due Diligence: City to obtain info on (a) Tenant's experience in starting & operating a restaurant and (b) Tenant's financing for construction & operation of the restaurant.
- Broker Fee: The broker fee for this transaction will be \$54,027.64. Fifty percent is due upon lease execution, and fifty percent is due upon Rent Commencement.

In addition, as directed by the City Council at its meeting on June 22, 2010, the lease is to contain additional restrictions on the use of the premises by the tenant as follows:

1. Live entertainment of any kind will not be allowed on the site.
2. The business must close by midnight with deviation only in limited circumstances
3. Any outdoor dining to conclude by 10 pm with doors closed

4. Appropriate noise limitations for a use appropriate to the proximity to residential are to be included in the lease.

**Projected Rent and Broker Fees
(Exhibit A, continued)**

Term	Year	Escalation	Price PSF	Monthly Rent	Annual Rent	Broker %	Broker \$
Initial	1		\$ 1.95	\$ 9,886.50	\$ 88,978.50	6%	\$ 5,338.71
	2	3%	\$ 2.01	\$ 10,183.10	\$ 122,197.14	6%	\$ 7,331.83
	3	3%	\$ 2.07	\$ 10,488.59	\$ 125,863.05	5%	\$ 6,293.15
	4	3%	\$ 2.13	\$ 10,803.25	\$ 129,638.95	5%	\$ 6,481.95
	5	3%	\$ 2.19	\$ 11,127.34	\$ 133,528.11	5%	\$ 6,676.41
	6	3%	\$ 2.26	\$ 11,461.16	\$ 137,533.96	3%	\$ 4,126.02
	7	3%	\$ 2.33	\$ 11,805.00	\$ 141,659.98	3%	\$ 4,249.80
	8	3%	\$ 2.40	\$ 12,159.15	\$ 145,909.78	3%	\$ 4,377.29
	9	3%	\$ 2.47	\$ 12,523.92	\$ 150,287.07	3%	\$ 4,508.61
	10	3%	\$ 2.54	\$ 12,899.64	\$ 154,795.68	3%	\$ 4,643.87
Option 1	11	FMR but not < Year 10				0%	0
	12	3%				0%	0
	13	3%				0%	0
	14	3%				0%	0
	15	3%				0%	0
Option 2	16	3%				0%	0
	17	3%				0%	0
	18	3%				0%	0
	19	3%				0%	0
	20	3%				0%	0
				Total 10 Years	\$ 1,330,392.21	Broker Total	\$ 54,027.64
				Net 10 Years	\$ 1,276,364.58		